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OFFICE OF PETITIONS

In re Application of :
Shikhman et al. : DECISION ON PETITION TO
Application No. 10/037,899 : WITHDRAW HOLDING OF
Filed: 22 October, 2001 : ABANDONMENT
For: CRIMPING AND CUTTING :
DEVICE :
:

This is a decision on the petition filed on 3 March, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is GRANTED.

A Notice of Abandonment was mailed on 24 January, 2006, stating that the application was abandoned for failure to timely respond to the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on 31 October, 2005.

On 3 March, 2006 (certificate of mailing date 28 February, 2006), petitioners filed a corrected Appeal Brief and three (3) month extension of time, along with the present petition. Petitioners assert that, contrary to the statement set forth in the Notice of Abandonment, the reply period set in the Notification mailed on 31 October, 2005, was extendable in accordance with 37 CFR 1.136. Petitioners aver that since a timely reply with an extension of time has been filed, the Notice of Abandonment was mailed prematurely and that the holding of abandonment should be withdrawn.

Upon review, petitioners are correct. It is noted that the Notification mailed on 31 October, 2005, states that applicant is given one month or 30 days to respond and that EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136." Further, MPEP 1205.03 states that applicant will be given 1 month or 30 days from the mailing of the notification of non-compliance, whichever is longer, to file an amended brief. Extensions of time may be granted under 37 CFR 1.136(a) or 1.136(b). As such, applicant is in fact entitled to obtain extensions of time to respond to the Notice.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 3733 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

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